

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

JOHN BAXLEY, JR., ERIC L. JONES,
SAMUEL STOUT, AMBER ARNETT,
EARL EDMONDSON, JOSHUA HALL,
DONNA WELLS-WRIGHT,
ROBERT WATSON, HEATHER REED,
and DANNY SPIKER, JR.,
on their own behalf and on behalf
of all others similarly situated,

Plaintiffs,

v.

Civil Action No. 3:18-cv-01526
(Chambers, J.)

BETSY JIVIDEN, in her official capacity as
Commissioner of the WEST VIRGINIA
DIVISION OF CORRECTIONS AND
REHABILITATION, the WEST VIRGINIA
DIVISION OF CORRECTIONS AND
REHABILITATION, and SHELBEY SEARLS, in his
official capacity as the Superintendent of WESTERN
REGIONAL JAIL AND CORRECTIONAL FACILITY,

Defendants.

AFFIDAVIT OF BETSY JIVIDEN

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA, to wit:

I, Betsy Jividen, do hereby affirm and state the following:

1. I am Commissioner of the West Virginia Division of Corrections and Rehabilitation ("WVDCR") and a named defendant in the above-styled lawsuit.
2. On March 11, 2020, I issued a memorandum directed to all WVDCR employees regarding COVID-19.

3. In the March 11, 2020, I noted that "we are mindful of the need to reduce the risk and protect the health and safety of our employees, populations, volunteers, contractors, and others who enter our facilities and do business with us."

4. The March 11, 2020 memorandum outlined certain "proactive guidelines and controls" based upon input and guidance from the Center for Disease Control ("CDC") and certain West Virginia health agencies.

5. The March 11, 2020 memorandum provides historical background regarding COVID-19 and also set forth policies regarding: 1) good health habits and sanitation; 2) frequent hand washing and/or sanitizing; 3) respiratory (coughing and sneezing) etiquette; 4) avoiding touching the face, eyes, nose and mouth; 5) increased emphasis on disinfection of "high touch" areas; 6) screening of inmates, employees, contractors, volunteers, and others; 7) cancellation of "non-attorney" in-person visits; and 8) approval of the use of electronic visitation and telephone calls.

6. In the March 11, 2020 memorandum, I directed that all job-related out-of-state and international travel for employees was cancelled until further notice.

7. In the March 11, 2020 memorandum, I instructed all employees that were sick or showing flu-like symptoms to stay home, contact their medical providers, and be tested.

8. In the March 11, 2020 memorandum, I instructed health care administrators to provide supervisors with the training needed to conduct daily screenings of employees reporting to work and employees under movement restriction were told that they would not be permitted to return to work until the completion of an appropriate monitoring period.

9. The March 11, 2020 memorandum contains information and strategies designed to eliminate or minimize out-of-pocket expenses to employees related to testing for COVID-19 and insurance deductibles.

10. The March 11, 2020 memorandum provided information to employees regarding mental health support and a “hotline” for those suffering from fear or stress over the COVID-19 pandemic.

11. The March 11, 2020 memorandum contains instruction and policies related to the screening of contractors, vendors and volunteers.

12. The March 11, 202 memorandum contains instruction and policies regarding the use of respirator masks for medical personnel and WVDCR employees. *Id.*

13. On March 20, 2020, at my direction, WVDCR adopted a Policy Directive entitled “COVID-19 RESPONSE PLAN”.

14. The purpose of the plan was and is to adopt formal policies and procedures within WVDCR related to the prevention and management of COVID-19 within the prisons and jails in West Virginia.

15. For security and public safety reasons, WVDCR considers the Policy Directive to be confidential and it purposefully resists attempts to have the Policy Directive released to the public.

16. The COVID-19 RESPONSE PLAN Policy Directive specifically addresses and calls for inmate and staff education regarding COVID-19.

17. The COVID-19 RESPONSE PLAN Policy Directive requires work stoppage by any employees exhibiting COVID-19 symptoms.

18. The COVID-19 RESPONSE PLAN Policy Directive provides for increased staffing of inmates in critical areas such as sanitation and food service.

19. The COVID-19 RESPONSE PLAN Policy Directive provides for the screening, testing, and treatment of inmates either exposed to or exhibiting symptoms of COVID-19.

20. The COVID-19 RESPONSE PLAN Policy Directive contains specific strategies designed to prevent or minimize exposure and spread of the COVID-19 virus.

21. The COVID-19 RESPONSE PLAN Policy Directive provides for the quarantining of any exposed inmates to help prevent the spread of COVID-19 to other inmates or employees.

22. The COVID-19 RESPONSE PLAN Policy Directive provides instruction related to additional sanitary measures for frequently touched surfaces and items such as telephones and doorknobs.

23. The COVID-19 RESPONSE PLAN Policy Directive provides for communication and coordination with community hospitals related to COVID-19.

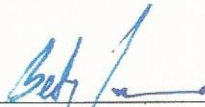
24. Medical staffing decisions are generally made by the contractors that actually provide the medical care to inmates in prisons and jails in West Virginia, Wexford Health Sources, Inc. and PrimeCare Medical, Inc. So far, we have identified no issues related to the medical staffing of any jail as it relates to COVID-19.

25. During the COVID-19 pandemic, inmates are being given free telephone calls and free access to video visitation with loved ones that is beyond the normal policy of WVDCR. Additionally, inmate medical copays for medical services have been eliminated.

26. On March 26, 2020, I issued a memorandum to all facility superintendents and directors discussing "Interim Guidance from the Centers for Disease Control and Prevention."

The purpose of the memorandum was to disseminate a document from CDC entitled "*Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities.*" This CDC memorandum addresses, among other things, specific "guidance" to correctional and detention facilities related to COVID-19 and outlines certain "best practices" related to: 1) operational and communications preparations for COVID-19; 2) enhanced cleaning and disinfecting and hygiene practices; 3) social distancing strategies; 4) visitor policies; 5) infection control; 6) screening for inmates, staff and visitors; 7) medical isolation and cohorting; 8) healthcare for suspected cases; 9) clinical care; and 10) considerations for persons as higher risk of severe disease from COVID-19.

FURTHER THE AFFIANT SAYETH NOT



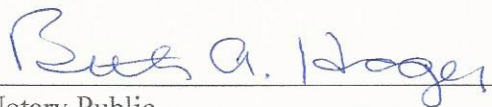
Betsy Jividen

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to wit:

The foregoing instrument was acknowledged and sworn to before me this 30th day of March, 2020, by Betsy Jividen.

My Commission expires: August 20, 2022.



Notary Public

